

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK**

GRUBHUB INC.,

Plaintiff,

v.

CITY OF NEW YORK,

Defendant.

No. 21 Civ. 10602 (AT)

Related to No. 21 Civ. 10347 (AT)

**STIPULATION AND [PROPOSED
ORDER]**

WHEREAS, on December 10, 2021, Plaintiff filed a Complaint, and on December 17, 2021, filed an Amended Complaint, seeking, among other things, preliminary injunctive relief enjoining the City’s enforcement of N.Y.C. Administrative Code §§ 20-847.3 (effective Dec. 27, 2021, repeals Jan. 24, 2022), 20-563.7 (effective Jan. 24, 2022) (together, the “Challenged Laws”), which require “third-party food delivery services” to disclose certain customer data to restaurants;

WHEREAS, on December 10, 2021, Plaintiff also filed two “Related Case Statements,” which set forth its position that the above-captioned action is related to *DoorDash, Inc. v. City of N.Y.*, S.D.N.Y. No. 21 Civ. 07695 (AT) and *Portier, LLC v. City of N.Y.*, S.D.N.Y. No. 21 Civ. 10347 (AT);

WHEREAS, on December 14, 2021, the Court designated the above-captioned action as related to *Portier, LLC v. City of N.Y.*, S.D.N.Y. No. 21 Civ. 10347 (AT);

WHEREAS, on December 14, 2021, the Court issued an Order stating, among other things, that it intends to consolidate this action with *DoorDash, Inc. v. City of N.Y.*, S.D.N.Y. No. 21 Civ. 07695 (AT) and *Portier, LLC v. City of N.Y.*, S.D.N.Y. No. 21 Civ. 10347 (AT);

WHEREAS, in the interest of the parties and judicial economy, and without admitting any fault or liability, Defendant has agreed to stay enforcement of the Challenged Laws pending final determination by this Court resolving, or disposing of, this action in exchange for Plaintiff's agreement not to file a motion for a preliminary injunction;

WHEREAS, Plaintiff and Defendant (collectively, "Parties") agree to litigate expeditiously towards a final resolution and/or disposition of this action;

NOW, THEREFORE, IT IS HEREBY STIPULATED AND AGREED, by and between counsel for the Parties, as follows:

1. Plaintiff hereby agrees not to file a motion for a preliminary injunction;
2. Defendant and its agents will not enforce (including retroactively) the Challenged Laws against Plaintiff or its affiliated businesses operating under the names Grubhub, Just Eat Takeaway, Seamless, LevelUp, Tapingo, Eat24, MenuPages, and Allmenus (hereinafter the "affiliated businesses"), for any conduct occurring between (a) December 27, 2021, the effective date of N.Y.C. Administrative Code § 20-847.3, and (b) sixty (60) days following a final determination by this Court resolving, or disposing of, this action (the "Non-Enforcement Period"). Defendant and its agents will not consider compliance with the Challenged Laws during the Non-Enforcement Period in determining whether to grant or renew any license to Plaintiff or its affiliated businesses issued under subchapter 36 of chapter 2 of title 20 of the N.Y.C. Administrative Code;
3. Nothing contained herein shall be deemed (a) to be an admission by Defendant or its agents that the Challenged Laws are, in any way, invalid or unconstitutional under United States or New York State Constitutions, or (b) to constitute a policy or practice of Defendant or its agents; and

4. This stipulation is without prejudice to either Party and the Parties hereby agree and acknowledge that this Stipulation and Order (a) does not confer “prevailing party” status to Plaintiff under 42 U.S.C. § 1988; (b) does not prevent either Party from pursuing any rights to appeal any determination by this Court, seeking a stay or injunction pending such appeal, or seeking any other relief not specifically addressed in this stipulation; (c) may be executed in counterparts; and (d) shall be filed by Defendant.

Dated: New York, New York
December 23, 2021

CAHILL GORDON & REINDEL LLP
Attorneys for Plaintiff Grubhub Inc.

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Dated: New York, New York
_____, 2021

SO ORDERED:

HON. ANALISA TORRES
UNITED STATES DISTRICT JUDGE